

### **DETAILED ACTION**

This application is a national stage entry of PCT/CH04/00175, filed on 3/22/2004, and claims foreign priority to Application No. 466/03, filed on 3/20/2003.

#### **Request for Continued Examination**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/17/2009 has been entered.

#### **Declaration under 37 CFR § 1.132**

2. The declaration under 37 CFR 1.132 submitted by the Applicants has been fully considered and is found persuasive. The declaration under 37 CFR 1.132 filed 9/17/2009 is sufficient to overcome the rejection of claims 11, 13-14, and 22-23 under 35 USC § 103(a) over upon Usui, Ann. Rep. Takeda Res. Lab., 27, pp. 96-111, (1968).

#### **Response to Remarks**

3. Applicant's remarks, filed on 9/17/2009, regarding the rejection of claims 24-26 under 35 USC § 102(b) as being anticipated by JP 09-059258 have been fully considered. The claims have been amended to exclude the compounds disclosed by JP

09-059258; therefore, the rejection of claims 24-26 under 35 USC § 102(b) is withdrawn.

Claims 12 and 15-16 were previously objected to for being dependent upon a rejected base claim. Due to the withdrawal of the previous claim rejections under 35 USC § 102(b) and 103(a), the objection of these claims is withdrawn.

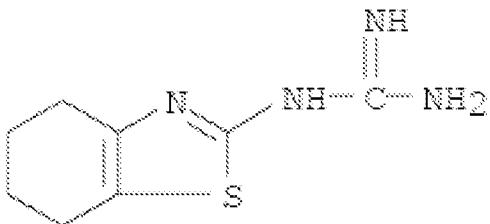
Claims 1-10 and 17-21 have been cancelled. Claims 11-16, and 22-33 are pending.

A telephonic interview was conducted with the Applicant's attorney, Jeff Vockrodt, on 12/16/2009. Proposed amendments to claims 11, 12, and 24 were discussed. A supplemental amended claim set was filed on 12/17/2009.

4. Claims 11-16 and 22-33 were examined.
5. Claims 11-16 and 22-33 are allowed.

#### **REASONS FOR ALLOWANCE**

6. The following is an examiner's statement of reasons for allowance: the prior art neither teaches nor suggests the claimed compounds of formula I as cited by claims 11-16 and 22-33. The closest prior art is Usui, Ann. Rep. Takeda Res. Lab., 27, pp. 96-111, (1968). Usui teaches the compound N-(4,5,6,7-tetrahydro-2-benzothiazolyl)-guanidine, which has the structure shown below:



The compound taught by Usui and the claimed compounds are very similar, and have the same core structure. The only difference between the claimed compounds and the compound taught by Usui is that for the claimed compounds, the saturated carbon ring adjacent to the thiazole ring is substituted with at least one methyl group; the saturated carbon ring for the compound taught by Usui has only hydrogen substituents. However, the claimed compounds and the compound taught by Usui are not obvious variants of each other, as evidenced by the Declaration filed by the Applicants, which clearly shows that the substitution of hydrogen for a methyl group on the saturated carbon ring results in dramatically different biological activity. Therefore, the compound taught by Usui and the claimed compounds would not have been *prima facie* obvious to one of ordinary skill in the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### Conclusion

7. Claims 11-16, and 22-33 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH PIHONAK whose telephone number is (571)270-7710. The examiner can normally be reached on Monday-every other Friday 8:00 AM - 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan can be reached on (571)272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/SREENI PADMANABHAN/

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Supervisory Patent Examiner, Art Unit 1627